IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 652 OF 2005

Mohan Shantaram Birje & Ors... ....Appellants.
V/s
Smt.Sumati Harischandra Birje & Ors..... ....Respondents.

Ms.Sonia Miskin i/by Mrs.S.A.Mudbidri, adv. For the appellants.

CORAM: A.P.DESHPANDE, J.
13/7/07

PC:

The present appellant Nos. 1 to 3 are original defendants against whom respondent No.1 filed a suit for injunction seeking to restrain defendants from interfering with possession of the suit properties. The trial Court decreed the suit and aggrieved thereby present appellants filed regular civil appeal in the district Court and the District Judge dismissed the appeal and aggrieved by concurrent view taken by the Courts below the present second appeal has been filed. Both the Courts below have relied upon an important circumstance to hold that the plaintiff has established his title to the suit property. The said circumstance is that the father of the present appellants by name Shantaram had filed a suit for partition and separate possession against the predecessor in title of the plaintiff i.e. Pandurang. The suit for partition and separate possession to the extent it related to the suit property came to be dismissed and thus the present appellants who claim

through Shantaram cannot claim any title to the suit property. So finding the Courts below have decreed the suit filed by the plaintiff. Perused the judgment and decree passed by the Courts below. Same does not call for interference as a further finding of fact is also recorded by the Courts below that the plaintiffs are in possession of the suit property. No substantial question of law emerges for consideration. Hence second appeal is summarily dismissed. In view of disposal of second appeal Civil Application does not survive.

13.7.07